IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 9806 of 2004

Between:
Ramnivas Bajai S/o Sardarmal Bajaj
763, Journalists Colony, RoadNo.3 Banjara Hills, Hyd
..... PETITIONER

AND
1 AP.Tranco, rep.by its Chairman & Managing Director,
Vidyuth Southa , Khairatabad , hyd
2 The Superintending Engineer Assessments, AP. CP.D.CL
AP. Housing Corporation Ltd. Building Urdu Street,
Himayathanagar, Hyderabad
3 The Divisional Engineer, Assessments, AP.CPDCL
AP. Housing Corporation Ltd., Building Urdu street,
Himayathnagar, Hyderabad
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring impugned orders passed by the 3rd respondent dt.9/10/2003 as confirmed by the 2nd respondent by his order dt.31/12/2003 and enquiry initiated pursuant to the provisional assessment notice dt.20/07/1994 as illegal, arbitrary, ultravires, unconstitutional and violative of Article 14 of the Constitution of India, and consequently direct the respondents to refund the amount of Rs.1,85,433/- deposited towards the provisionally estimated amount under the impugned notice for restoration of supply, together with interest @18% per annum,

Counsel for the Petitioner: Mr.N.PRAMOD, Advocate

Counsel for the Respondents: MR.KANAKAMEDALA RAVINDRA KUMAR

(S.C for A.P.TRANSCO)

The Court made the following ORDER :

This writ petition is filed by the petitioner aggrieved by the action of the second respondent - the appellate authority in disposing of the appeal without issuing any notice and hearing, though, he has specifically sought for an opportunity of personal hearing before the appellate authority.

2. The learned counsel for the petitioner also contended that though the order was passed by the appellate authority as early as on 31.12.2003, the said order was not communicated to the petitioner till June, 2004 and it is only when the petitioner enquired about the fate of the appeal, a copy of the appellate order was communicated to him. Hence, the present writ petition.

3. Heard the Learned Counsel for the petitioner and the Learned Standing Counsel for the respondents.

4. Admittedly, the appellate authority disposed of the appeal without issuing any notice to the petitioner-appellant and without hearing him though he has specifically sought for an opportunity of personal hearing, which is evident from the memorandum of appeal filed before the appellate authority. When once the petitioner has sought for personal hearing before the appellate authority, as per the statutory provisions, the appellate authority is bound to give personal hearing to the appellant-petitioner and then only the appeal ought to have been disposed of on merits. The non-compliance of the said statutory provisions of giving personal hearing, when sought for by the petitioner, is clearly not only in violation of the statutory provisions, but also in

violation of the principles of natural justice.

5. On that simple ground, the impugned appellate order of the second respondent is set aside and the matter is restored to his file for fresh consideration. The second respondent-appellate authority is directed to issue notice to the appellant and hear him in the matter and then dispose of the appeal in accordance with law after considering all the contentions raised by the appellant.

6. The writ petition is accordingly allowed.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

17.06.2004
va

One Fair copy to the Hon'ble Sri Justice S. Ananda Reddy (for his lordship's kind perusal)

To

1 The Chairman & Managing Director, AP.Tranco,
Vidyuth Southa , Khairatabad , Hyderabad.
2 The Superintending Engineer Assessments, AP. CP.D.CL
AP. Housing Corporation Ltd. Building, Urdu Street,
Himayathanagar, Hyderabad.
3 The Divisional Engineer, Assessments, AP.CPDCL
AP. Housing Corporation Ltd., Building Urdu street,
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4 Two CD copies